

CHARTER
OF
THE EASTERN AND SOUTHERN AFRICAN
TRADE AND DEVELOPMENT BANK



MEMORANDUM TO PARLIAMENT

MINISTER:

**KEN OFORI-ATTA
MINISTER FOR FINANCE**

TITLE:

**REQUEST FOR PARLIAMENT RATIFICATION OF THE
CHARTER ESTABLISHING THE EASTERN AND
SOUTHERN AFRICAN TRADE AND DEVELOPMENT
BANK
(TDB CHARTER)**

DATE: 31st JANUARY, 2022

1. ACTION REQUIRED

Parliament is respectfully requested to consider and ratify, the Charter establishing the Eastern and Southern African Trade and Development Bank ("TDB" or the "Bank"). This Agreement is expected to be concluded between the Government of Ghana and the Bank as part of the requirements of becoming a member of the Eastern and Southern African Trade and Development Bank (TDB).

2. BACKGROUND

Established in 1985, TDB is a multilateral, treaty-based Development Financial Institution (DFI) with assets of over US\$6.00 billion and immunities and privileges like the African Development Bank (AfDB) and the World Bank Group. It is a well-established and high performing African multilateral DFI with world-class governance and strong development impact through financing projects, infrastructure, and trade within the Bank's operating region comprising its member states. The Bank plays a key role in supporting trade growth and in attracting capital to the African continent by positioning itself as a financial bridge into the continent.

TDB's footprint covers 22 Member States with a total GDP of US\$864 billion and a total population of 657 million. TDB finances and fosters trade, economic integration and sustainable development through trade finance, project and infrastructure finance, asset management and advisory services. Some of TDB's sector areas include transport, energy, real estate, industrial, telecom, agribusiness, and financial services.

The Republic of Ghana was approved by TDB's Board of Governors as an eligible member state, informed by the consideration that the membership of the Republic of Ghana in TDB was, inter alia, important to the African integration as the secretariat of the Africa Free Trade Area (AfCFTA).

3. JUSTIFICATION FOR GOVERNMENT ACTION

Ghana's membership in TDB would open Ghanaian entrepreneurs, financial institutions and investors to these substantial growth opportunities. To illustrate, TDB has supported a greenfield farming company with US\$16.50 million to become one of the largest sugar producers in Zambia. It has also extended a US\$10.6 million revolving pre-export structured trade commodity facility to a vanilla business in Madagascar. The lack of trade finance facilities in Ghana is expected to be reduced through the GoG's subscription to TDB. It's important to note that Ghana already has an official relationship with TDB through Ghana International Bank which has signed a facility agreement with TDB for a US\$20 million revolving trade finance facility.

TDB has expressed an interest in participating in the financing of the circa US\$600 million Accra-Tema Motorway & Extensions Project, a couple of renewable projects (wind and solar) and agribusiness opportunities in GIIF's pipeline

4. OPTIONS AND IMPACT CONSIDERED

In arriving at the decision to join TDB, two (2) options were considered as follows:

- Option one - consider Ghana's accession to TDB
- option two - maintain the status quo and decline the offer to join TDB.

Option one is informed by the expected benefits to be derived from the accession to TDB. Ghana faces an annual infrastructure deficit of approximately US\$5 billion. It is expected that Ghana will leverage its accession to raise long term capital from TDB for infrastructure development. It will also improve access to cheaper long term financing for infrastructure investment which is an important enabler for economic development. The access to trade finance facilities in Ghana is expected to improve.

Option two was to maintain the status quo and decline the offer to join the TDB. When this option is followed, Ghana will not be a member of TDB and therefore would not benefit from its capacity to support our efforts to raise additional long-term capital for infrastructure development.

Recommended Option

Option one is therefore recommended as the best, since it would spur trade between Ghana and the operating sub regions of the Bank which include East Africa, Southern Africa, and the Franco-Lusophone Africa. It will also help Ghana to strategically leverage on its hosting of the African Continental Free Trade Area (AfCFTA) by increasing intra-African trade through the deployment of the Bank's trade finance instruments to increase production, expand trade, create jobs and reduce poverty in Ghana.

5. INTER – MINISTERIAL CONSULTATIONS

Consultations have been carried out with stakeholders including the Ghana Infrastructure and Investment Fund (GIIF) and Office of the Attorney General and Ministry of Justice. The consensus from the consultations was that Ghana joining the TDB would provide the needed funding to support trade and infrastructure investment in the country

6. IMPLEMENTATION PLAN

Government through GIIF has put in place an implementation plan linked to the overall strategy of GIIF. The plan outlines the membership requirements for Ghana's accession to TDB. The requirements include:

- Obtaining Cabinet and Parliamentary approval
- His Excellency the President assent to the TDB Charter
- GIIF (on behalf of GoG/MOF) sends an offer to accede to the Charter of the Bank and subscribes to 77 No. Class A Shares of the Bank.
- Signing the Subscription Agreement.

7. LEGISLATION / REGULATORY PLAN

The accession to the TDB has no legislative or regulatory implications. It fully complies with the existing laws of Ghana.

8. FINANCIAL IMPACT

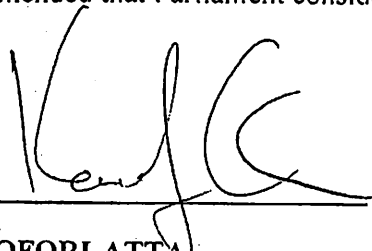
Membership into TDB has financial implications. Members are required to subscribe to the capital stocks of the Bank. The Government of Ghana, acting through the Ghana Infrastructure and Investment Fund is required to subscribe to 77 Class A Shares in the Bank's capital stock. This will entail a total commitment subscription amount of Five Million United States Dollars (US\$5,000,000), out of which 20% is payable and the remaining 80% is callable in accordance with the Class A capital structure of the Bank. It should be noted that in the history of the Bank since its establishment in 1985, the callable capital has never actually been called and given the strong capital base of the Bank (US\$1.40 billion), it is highly unlikely it would be called in the foreseeable future.

9. COMMUNICATIONS

The existing communication plan of GIIF would be used to disseminate Ghana's accession to the TDB.

10. RECOMMENDATIONS

Given the low costs of entry and the considerable benefits of becoming a member of TDB, it is recommended that Parliament consider and ratify the TDB Charter.



KEN OFORI-ATTA
MINISTER FOR FINANCE



REPUBLIC OF GHANA

OFFICE OF
THE PRESIDENT

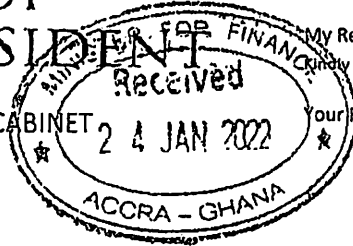
SECRETARY TO THE CABINET

Jubilee House, Accra
Digital Address: GA-000-0288

My Ref No. OPCA.3/3/240122

Kindly quote this number and date on all correspondence

Your Ref No. _____



24th January, 2022

CONFIDENTIAL

REQUEST FOR CABINET APPROVAL FOR THE RATIFICATION OF THE
CHARTER ESTABLISHING THE EASTERN AND SOUTHERN AFRICAN
TRADE AND DEVELOPMENT BANK (TDB CHARTER)

Cabinet at its Twenty-second meeting held on Thursday, 20th January, 2022 considered a report of the Cabinet Committee on Economic Matters on the above-mentioned Memorandum submitted by the Minister for Finance.

2. The Memorandum requested Cabinet to consider, approve and recommend to Parliament for ratification, the Charter establishing the Eastern and Southern African Trade and Development Bank.

3. Cabinet approved the Memorandum for the consideration of Parliament.

4. I should be grateful if you could take requisite action on the decision by Cabinet.

MERCY DEBRAH-KARIKARI.
SECRETARY TO THE CABINET

THE HON. MINISTER FOR FINANCE

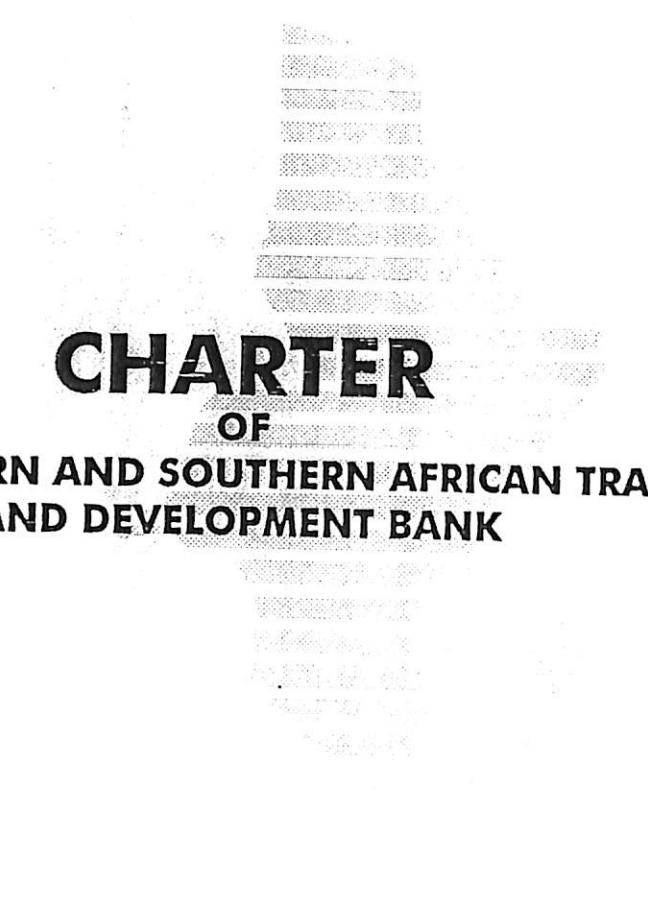
cc: Chief of Staff

Secretary to the President

Secretary to the Vice President

Chairperson, Cabinet Committee
on Economic Matters

Hon. Minister for Parliamentary
Affairs



CHARTER
OF
THE EASTERN AND SOUTHERN AFRICAN TRADE
AND DEVELOPMENT BANK



CONTENTS



ARTICLE

Preamble	1
1. Definition	2
2. Establishment of the Bank, Group and Subsidiaries.....	4
3. Membership of the Bank	4
4. Objectives of the Bank	5
5. Authorised Capital Stock, Allocation of Shares, Register of Shareholders and Share Certificates	6
6. Subscription of Shares	8
7. Payment of Subscriptions and Outstanding Obligations	10
8. Ordinary Capital Resources	13
9. Trade Financing Fund	13
10. Special Funds	14
11. Use of Resources	14
12. Ordinary Trade Finance and Special Operations	15
13. Methods of Operation	15
14. Limitations on Operation	16
15. Provision of Currencies for Loans and Other Financial Transactions	17
16. Operating Principles	18
17. Terms and Conditions for Direct Loans and Guarantees	20
18. Defaults on Loans and Methods of Meeting Liabilities of the Bank	20
19. Commission on Fees	21
20. Special Reserve	21
21. Borrowing, Investment and Other Powers of the Bank	21
22. Allocation of Net Income	22
23. Notice to be Placed on Securities	23
24. Currencies	23
25. Organisation and Management	24



26.	Board of Governors - Composition and Functions	24
27.	Board of Directors - Composition and Functions	26
28.	Procedures of the Board of Directors	28
29.	Voting	29
30.	Group Managing Director and Management of TDB Group	30
31.	Prohibition of Political Activity	32
32.	Principal Offices and Offices of the Bank	32
33.	Channels of Communications and Depositories	33
34.	Working Languages	33
35.	Accounts and Reports	33
36.	Withdrawal of Members	34
37.	Suspension of Membership	34
38.	Settlement of Accounts	35
39.	Termination of Operations	37
40.	Liability of Members and Payment of Claims	37
41.	Distribution of Assets	38
42.	Judicial Proceedings	38
43.	Status, Capacity, Immunities and Privileges	39
44.	Amendment of the Charter	41
45.	Interpretation or Application	42
46.	Interpretation of the Charter and Settlement of Disputes.....	42
47.	Power to Make Regulations	43
48.	Final Provisions	43
49.	Commencement of Operations	43

ADDENDUM

Annexure A - Group Corporate Secretary's Note	45
Annexure B - Amendments and Repeals	46



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

CHARTER OF THE EASTERN AND SOUTHERN AFRICAN TRADE AND DEVELOPMENT BANK

WHEREAS Chapter Nine of the Treaty for the Establishment of the Preferential Trade Area for Eastern and Southern African States makes provision for the establishment of the Eastern and Southern African Trade and Development Bank;

WHEREAS in exercise of the powers conferred upon it by Articles 32 and 34 of the said Treaty the Authority of the Preferential Trade Area for Eastern and Southern African States in its Third Meeting directed that the Bank should be established without further delay;

AND WHEREAS at the Sixth Meeting of the Council of Ministers of the Preferential Trade Area for Eastern and Southern African States members of the Council were duly authorised by their respective Heads of State and Government to adopt the Charter of the Bank.

NOW therefore the Council of Ministers of the Preferential Trade Area for Eastern and Southern African States ;

HEREBY AGREES AS FOLLOWS:



Article 1: Definition

In this Charter:

"African Institution" means any regional African institution which is managed or controlled by more than one African state, or its Designated Institution. For the purposes of this definition, "managed or controlled" means the possession (through the cumulative ownership of a simple majority of the voting stock of such institution) of the power to direct, or cause the direction of, the management and policies of such institution;

"Authority" means the Authority of the Common Market established under Article 7 of the Treaty;

"Bank" means the Eastern and Southern African Trade and Development Bank established by Article 2 of this Charter;

"Chief Executive Officer" means a chief executive officer (or equivalent) of (i) the Bank or the Trade and Development Fund appointed in accordance with Article 30(7) of the Charter or (ii) an entity executing its mandate as a vehicle of the Common Market under the auspices of the TDB Group such as the COMESA Infrastructure Fund or (iii) such entity as may be determined by authority of the Board of Governors;

"COMESA Infrastructure Fund" means an investment vehicle of the Common Market domiciled in Mauritius that was established pursuant to the Protocol Relating to the Fund for Co-operation, Compensation and Development of the Common Market adopted by the COMESA Heads of State & Government in May 2002 at their meeting in Addis Ababa, Ethiopia;

"Common Market" means the Common Market of Eastern and Southern Africa established by Article 1 of the Treaty;

"Council" means the Council of Ministers of the Common Market established by Article 7 of the Treaty;

"Designated Institution" means the central bank, sovereign wealth fund or any other state-owned agency;

"East African Community" or "EAC" means the community established pursuant to the treaty dated 30th November, 1999;

"Eligible Member State" means any country which has the status of membership of, or any country which is eligible to join the membership of, any of the Regional



Economic Communities (RECs) or any other African country that borders a Member State;

"Group Chief Risk Officer" means the Group Chief Risk Officer of TDB Group appointed pursuant to Article 30(7) of the Charter;

"Group Corporate Secretary" means the Group Corporate Secretary of TDB Group appointed pursuant to Article 30(7) of the Charter;

"Group General Counsel" means the Group General Counsel of TDB Group appointed pursuant to Article 30(7) of the Charter;

"Group Managing Director" means the Group Managing Director of TDB Group appointed pursuant to Article 26 of the Charter;

"Intergovernmental Authority on Development" or "IGAD" means a REC for countries from the Horn of Africa, the Nile Valley and the African Great Lakes created in 1996 as a successor to the Intergovernmental Authority on Drought and Development that was established in 1986;

"Institution" includes, for the avoidance of doubt, unregistered or unincorporated associations or trusts whether established by the law of any state or by any institution of the Common Market;

"Member" means a member of the Bank as defined in Article 3 of this Charter and who is also a Shareholder;

"Member Country" means a country which is a Member but which may not be a Member State;

"Member State" means (i) any country which is an Eligible Member State, has acceded to the Charter and membership of the Bank, and is a Shareholder or (ii) any country which is not an Eligible Member State, has been exceptionally approved by the Board of Governors to join the membership of the Bank, has acceded to the Charter and membership of the Bank, and is a Shareholder;

"Preferential Trade Area" means the Preferential Trade Area for Eastern and Southern African States established by Article 1 of the PTA Treaty;

"PTA treaty" means the treaty for the establishment of the Preferential Trade Area for Eastern and Southern African States which entered into effect on the 2nd September, 1982;

"Regional Economic Communities" or "RECs" means the various groupings of



countries into regional blocs consisting of the Common Market, EAC, IGAD and SADC or any such other regional organization as may be specified by the Board of Governors from time to time taking into account the objectives of the Bank and the treaties establishing or otherwise affecting it;

"Shareholder" means a Member which has subscribed to the capital stock of the Bank;

"Southern African Development Community" or "SADC" means the community established pursuant to the treaty signed on 17th August, 1992

"Subsidiary" means a subsidiary of TDB Group established pursuant to Article 32 of the Charter;

"TDB Group" has the meaning ascribed to it in Article 2(3) of the Charter.

"Trade and Development Fund" means the Subsidiary dedicated to the provision of technical assistance, grants, financial assistance, capacity building, and training towards contributing to advancing the achievement of the overall objectives of the Bank as set out under the Charter; and

"Treaty" means the treaty establishing the Common Market for Eastern and Southern Africa (COMESA), and which on entry into force on the 8th December, 1994 repealed and replaced the PTA Treaty.

Article 2: Establishment of the Bank, Group and Subsidiaries

1. There is hereby established the Eastern and Southern African Trade and Development Bank.
2. The Bank shall operate in accordance with the provisions of this Charter.
3. The Eastern and Southern African Trade and Development Bank together with the Subsidiaries, may be referred to as the Eastern and Southern African Trade and Development Bank Group or "TDB Group" in short.

Article 3: Membership of the Bank

1. The membership of the Bank shall be composed of and opened to:-
 - (i) Member States (or their Designated Institutions);
 - (ii) African Institutions;



(iii) other African and non-African states (or their Designated Institutions),
and

(iv) any African or non-African public or private Institution or corporate bodies.

2. The terms and conditions governing eligibility for each membership shall be determined by the Board of Governors which shall approve the membership of any state (other than the Eligible Member States), body corporate, enterprise or other Institution.

Article 4: Objectives of the Bank

The objectives of the Bank shall be, among other things, to:

(a) provide financial and technical assistance to promote the economic and social development of Member States, taking into account the prevailing varying economic and other relevant conditions within the Member States;

(b) promote the development of trade among the Member States conducted in accordance with the provisions of the Treaty by financing, where appropriate, activities related to such trade;

(c) further the aims of Member States by financing, wherever possible, projects designed to make the economies of the Member States increasingly complementary to each other;

(d) supplement the activities of national development agencies of the Member States by joint financing operations and by the use of such agencies as channels for financing specific projects;

(e) co-operate, within the terms of this Charter, with other institutions and organisations, public or private, national or international, which are interested in the economic and social development of the Member States; and

(f) undertake such other activities and provide such other services as may advance the objectives of the Bank which for the avoidance of doubt and without limiting the generality of the foregoing includes the provision of finance to, and the making of investments in, any African or non-African public or private Institution or corporate, whether or not the same is a Member, where the Board of Directors is of the view that to do so may advance the objectives of the Bank.



Article 5: Authorised Capital Stock, Allocation of Shares, Register of Shareholders and Share Certificates

1. The authorized capital stock of the Bank shall be United States Dollars six billion two hundred thirty-four (US\$6,000,000,234).
2. The authorized capital stock of the Bank shall be divided into (i) 176,468 Class A shares having a par value of United States Dollars twenty-two thousand six hundred sixty-seven (US\$22,667) each, (ii) 220,585 Class B shares having a par value of United States Dollars four thousand five hundred thirty-three and forty cents (US\$4533.40) each and (iii) 220,585 Class C shares having a par value of United States Dollars four thousand five hundred thirty-three and forty cents (US\$4533.40) each, which shall be available for subscription by Members in accordance with the provisions of paragraph 3(A) of this Article, and Articles 3 and 6 of this Charter;
 - (a) Class "A" shares shall be offered, allotted and issued to (i) all existing Members of the Bank; (ii) Member States or their Designated Institutions; (iii) African Institutions; (iv) other African states or non-African states or their Designated Institutions; (v) such other entities that the Board of Governors will deem fit and necessary for the said purpose and in all cases shall be divided into one-fifth payable and four-fifths callable;
 - (b) Class "B" shares shall be offered, allotted and issued to (i) holders of Class A shares or any person eligible to hold Class A shares; (ii) any African or non-African public or private Institution or corporate body; (iii) such other entities that the Board of Governors will deem fit and necessary for the said purpose and in all cases shall be payable in full; and
 - (c) Class "C" shares shall be (1) offered, allotted and issued to (i) Non-African sovereigns, sovereign wealth funds and private persons; (ii) African States and Institutions holding Class A shares or Class B shares that have reached their shareholding ceiling prescribed under Article 6; and (iii) any other state/institution that does not qualify to hold Class A shares or Class B shares; and (2) listed on one or more stock exchange(s) as may be approved by the Board of Directors.
3. Subject to this Article 5 and Article 6, any person eligible to be a Member may subscribe to Class A, Class B and Class C shares.
- 3(A). Member States shall, at all times, collectively hold the majority of shares allotted and issued under the capital stock of the Bank, provided always



that:

- (i) Members other than Member States which are members of the Common Market shall not hold more than two-fifth of the total authorized capital stock of the Bank comprising Class A and Class B shares; and
- (ii) Member States which are not Eligible Member States may hold Class A shares of the capital stock of the Bank or a combination of Class A and B shares of the capital stock of the Bank equivalent, in each case, to an amount which may be determined by the Board of Governors on a case by case basis.

4. The Bank shall keep and maintain a Register of Shareholders which shall be open for inspection by Shareholders. The Register of Shareholders shall contain such particulars as the Board of Directors may from time to time prescribe. It shall be maintained at any of the offices of the Bank or at any other place or in such manner as may be determined by the Board of Directors.

5. Every Shareholder shall be entitled, without payment of a fee but after full payment of the payable portion of the value of the share, to receive one certificate for all its shares or several certificates each for one or more of its shares. Every certificate shall be under the seal of the Bank and shall specify the shares to which it relates and the amount paid up thereon.

6. The authorised capital stock of the Bank may be increased by resolution of the Board of Governors approved by a vote representing a majority of the total voting power of the Shareholders.

7. Without prejudice to the terms of Article 38, the Bank shall have the right to repurchase its Class A shares or Class B shares and hold treasury stock in such limited circumstances as may be determined by the Board of Directors from time to time provided that:

- (i) such treasury stock shall not, at any given time, represent more than five per cent (5%) of the Bank's total issued and subscribed capital; and
- (ii) any shares repurchased by the Bank, whether under this Article 5 or Article 38, shall be held as treasury stock if the purchase has been funded out of the resources of the Bank that would otherwise have been available to pay dividends. If the purchase of shares has been funded out of other resources of the Bank then the shares shall be



cancelled and the capital of the Bank reduced by the nominal amount of the shares cancelled.

- 7(A). Class C shares may, pursuant to Article 36(4), be redeemed at the option of the Bank to be held as treasury stock on terms and conditions determined by the Board of Directors.
8. Any shares held as treasury stock will be held and dealt with by the Bank on the following basis:-
- (i) the treasury stock shall be held in the name of the Bank and noted as such on the register of Shareholders but the Bank shall not be entitled to exercise any rights in respect of the treasury stock (including the right to vote) save as specified in this Article.
 - (ii) the Bank shall not be entitled to any dividend or other distribution in respect of treasury stock but the Bank shall not be required to meet any calls for further subscriptions of capital or to meet any unpaid amount in respect of the treasury stock.
 - (iii) the Bank may cancel any treasury stock at any time and upon cancellation the Bank's capital shall be reduced by the nominal amount of the shares cancelled.
 - (iv) the Bank may sell treasury stock on such terms as it may then decide save that such sale must be for cash or a cash equivalent (which may include transferring them into an employee share scheme as part of the Bank's contribution to that scheme). Any such sale shall not be subject to any rights of pre-emption that other Shareholders may have. When shares are sold for cash or cash equivalent then any amount upto and including the price paid by the Bank on the original repurchase shall represent a realized profit and any excess shall be posted to such share premium or other account as may be maintained by the Bank.

Article 6: Subscription of Shares

1. Each Member State shall subscribe initially for Class A Shares on the basis of a formula to be determined by the Board of Governors.
2. Members of the Bank other than Eligible Member States shall subscribe to the shares of the capital stock of the Bank on the basis to be determined by the Board of Governors.



3. No Member and Members associated with that Member, shall be entitled to hold in aggregate more than 15.0 per cent of the total issued, subscribed and paid-in capital stock of the Bank comprising either Class A shares or Class B shares or both Class A and Class B shares. For the avoidance of doubt, this includes both holdings of Class A shares and Class B shares.
4. If the authorised capital stock of the Bank is increased, the following provisions shall apply:
 - (a) subject to the provisions of this Article, subscriptions to any increase of the authorised capital stock shall be subject to such terms and conditions as the Board of Governors shall determine;
 - (b) the Member States shall subscribe to the increased capital stock in accordance with the criteria laid down by the Board of Governors for making initial capital allocations;
 - (c) each Shareholder, other than a Member State, shall be given a reasonable opportunity to subscribe to a proportion of the increase of stock equivalent to the proportion which the paid up amount of its stock bears in relation to the total paid up amount of the subscribed capital stock immediately prior to such increase:

provided that no such Member shall be obliged to subscribe to any part of an increase of capital stock; and

provided further that the provisions of subparagraphs (b) and (c) of this paragraph shall not apply in respect of any increase or portion of an increase in the authorised capital stock which is intended solely to give effect to determinations of the Bank under paragraph 3 of this Article.

5. Class A and B Shares shall be issued at par plus any appropriate premium as may be required by the Board of Directors based on a valuation methodology recommended by an independent accounting firm of high repute and adopted by the Board of Directors from time to time.
- 5(A). Class C Shares shall be issued at (i) par plus any appropriate premium as may be required by the Board of Directors based on a valuation methodology recommended by an independent accounting firm of high repute and adopted by the Board of Directors from time to time; and (ii) a yield in favour of a Class C Shareholder in the form of a fixed coupon determined by an independent consultant of high repute and adopted by the Board of Directors.



6. Subject to Article 7(B), shares of the capital stock of the Bank shall not be pledged or encumbered in any manner whatsoever and they shall be transferable only subject to the provisions of this Charter and, without prejudice to Article 36(4), to the approval of the Board of Governors.
7. The liability of the Members on shares shall be limited to the unpaid portion of the issue price of the shares.
8. No Member shall be liable, by reason only of its membership of the Bank, for obligations of the Bank.

Article 7: Payment of Subscriptions and Outstanding Obligations

1. Subject to the provisions of this Charter and any regulations supplemental to it, payment of the amount subscribed to the paid-in capital stock of the Bank shall be made on terms and conditions as shall be determined by the Board of Governors from time to time.
2. The payment of each installment of subscriptions by Members to the original paid-in capital stock shall be made in convertible currencies.
3. Member States shall provide the Bank with irrevocable promissory notes or other instruments issued by the government of that Member State, which may or may not, at the discretion of the Board of Governors, be availed by the central bank of that Member State representing the amount of any unpaid installment whether or not then due from that Member State on any Class A share and payable on the due date of each future capital installment. Payment of the amount subscribed by subscribers of Class B shares shall be paid in full within 90 days from the date of subscription.
4. Payment of the amount subscribed on callable shares in the capital stock of the Bank shall be subject to call on the recommendations of the Board of Directors to the Board of Governors from time to time but such calls shall only be made as and when the amount thereof shall be required by the Bank:
 - (a) to repay monies raised by the Bank in capital markets borrowed or otherwise acquired by the Bank for the purpose of making or participating in loans; and
 - (b) to pay or repay any loan or loans guaranteed in whole or in part by the Bank in furtherance of its objectives.
5. In the event of a call being made in terms of paragraph 4 of this Article,



payment may be made as decided by the Bank in convertible currency or in the currency required to discharge the obligations of the Bank for the purposes of which the call is made. Calls on unpaid subscriptions shall be uniform in percentage on all callable shares. In the event that a call is made on the Class A shares then the voting rights attached to each Class A share shall be increased following full payment of the call so that the voting rights of each Class A share represents the same proportion as against a Class B share as the capital paid up on each Class A and Class B share.

6. The Board of Directors shall determine the place of any payment of subscriptions.
 7. If there is a capital call on the Class A shares under paragraphs 4 and 5 of this Article or a general capital increase by way of a further issue of Class A shares, then the Bank shall make available for issue to Class B shareholders such number of Class B shares which if subscribed will enable the Class B shareholders to maintain in aggregate the same voting proportion as against the Class A shareholders as existed immediately prior to the said capital call or general capital increase. The authorised share capital of the Bank shall be increased automatically to accommodate any such further issue of Class B shares notwithstanding paragraph 6 of Article 5.
- 7(A).
- (1) If a Member fails to fulfill any of its obligations to the Bank as set out in this Article 7, the Bank may, at any time thereafter, during such time as any such obligations remain unfulfilled, serve a notice on the said Member requiring the immediate fulfilment of such obligations, together with any interest which may have accrued on any payment obligations at the rate determined by the Board of Governors.
 - (2) The notice shall name a further day (not earlier than the expiration of fourteen (14) days from the date of service of the notice) on or before which the obligation required by the notice is to be fulfilled, and shall state that in the event of non-fulfilment at or before the time appointed the corresponding shares in respect of which the Member's obligations are yet to be fulfilled will be liable to be forfeited.
 - (3) If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Board of Governors to that effect.
 - (4) A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Board of Governors may deem fit; and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Board of Governors shall prescribe.

- (5) A person whose shares have been forfeited shall immediately cease to be a Shareholder of the Bank in respect of the forfeited shares, but shall, remain liable to pay to the Bank all monies which, at the date of forfeiture, were payable to the Bank in respect of such shares. The liability of the said Member shall cease if and when the Bank shall have received payment in full of all such monies in respect of the shares;
 - (6) The Bank may receive the consideration, if any, given for the share on any sale or disposition thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of and he shall thereupon be registered as the holder of the share, and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.
- 7(B). (1) The Bank shall have a first and paramount lien on all shares standing registered in the name of any person for all moneys presently payable by that person to the Bank (but the Board of Directors may at any time declare any share to be wholly or in part exempt from the provisions of this Article). The Bank's lien, if any, on a share shall extend to all dividends payable thereon and the Bank may apply the whole or part of any dividends declared in pro rata reduction of the amounts of any monies then due and outstanding from that Shareholder and in respect of which the Bank has made demand and served notice that the Bank's lien will be exercised over, and set off applied in respect of, such dividends accordingly.
- (2) The Bank may sell, in such manner as the Board of Governors deems fit, any shares on which the Bank has a lien following the expiration of thirty days' notice in writing to the Shareholder stating and demanding payment of the amount presently payable and notifying the Shareholder that the lien will be exercised over a specified number of shares which will be sold if the outstanding amount is not paid at the expiration of the notice period.
 - (3) The Board of Governors may authorise the transfer of shares to any purchaser thereof which shall become the registered holder of the shares so transferred. The Board of Governors shall have a complete discretion as to the terms of sale, whether as to timing, price, the suitability generally of the purchaser as a Shareholder or any other matter whatsoever. The purchaser shall not be bound to see to the application of the purchase money, nor shall the purchaser's title



to the shares be affected by any irregularity or invalidity in the sale process.

- (4) The proceeds of any sale of shares shall be received by the Bank and, having met any costs incurred in respect of the sale out of the proceeds, the balance remaining shall be applied in payment of the outstanding amount due from the Shareholder. Insofar as the balance is less than the amount outstanding then the shortfall shall remain due and payable by the Shareholder. If the balance exceeds the amount outstanding, then the surplus shall be paid to the Shareholder.

Article 8: Ordinary Capital Resources

In this Charter, the term "ordinary capital resources" of the Bank shall include:

- (a) the authorised capital stock of the Bank subscribed pursuant to the provisions of Article 6 of this Charter;
- (b) funds raised by borrowing of the Bank by virtue of powers conferred by Article 21 of this Charter in respect of which calls may be made as provided for in paragraph 4 of Article 7 of this Charter;
- (c) funds received in repayment of loans or guarantees made with the resources specified in paragraphs (a) and (d) of this Article and income derived from lending and guaranteeing; and
- (d) any other funds or income received by the Bank which do not form part of its Special Funds referred to in Article 10 of this Charter.

Article 9: Trade Financing Fund

There shall be a Trade Financing Fund which may be part of the ordinary capital resources of the Bank or a separate legal entity for the purpose of carrying out the provisions of Article 4 of this Charter relating to the trade financing operations of the Bank. The level of the actual allocation of resources to any such fund and the conditions of operating the same will be determined by the Board of Directors.

Article 10: Special Funds

1. The Bank may accept for administration from such sources as it considers appropriate Special Funds which are designed to promote the objectives of the Bank.
2. Special Funds accepted by the Bank under paragraph 1 of this Article shall



be used in such manner and upon such terms and conditions as are not inconsistent with the objectives of the Bank and the agreement under which such funds are accepted by the Bank for administration.



3. The Board of Governors shall make such regulations as may be necessary for the administration and use of each Special Fund. Such regulations shall be consistent with the provisions of this Charter, other than those provisions which expressly relate only to the ordinary operations of the Bank.
4. The term "Special Funds" as used in this Charter shall refer to the resources of any Special Fund and shall include:
 - (a) funds accepted by the Bank in any Special Fund;
 - (b) funds repaid in respect of loans or guarantees financed from any Special Fund which under the regulations of the Bank covering that Special Fund, are received by such Special Fund;
 - (c) income derived from operations of the Bank by which any of the resources or funds referred to in sub-paragraphs (a) and (b) of this Article are used or committed if, under the regulations of the Bank covering the Special Fund concerned, that income accrues to such Special Fund; and
 - (d) any other resource at the disposal of any Special Fund.

Article 11: Use of Resources

The resources and facilities of the Bank shall be used only within the Member States or such other locations that the Board of Directors considers will serve to implement the objectives of the Bank as set out in Article 4 of this Charter. When approving the use of the resources and facilities of the Bank in locations other than that of a Member State, the Board of Directors shall take account of the need, wherever practical to do so, to preserve the immunities and privileges of the Bank.

Article 12: Ordinary and Special Operations

1. The operations of the Bank shall consist of ordinary operations, and special operations. Ordinary operations shall be those financed from the ordinary capital resources of the Bank referred to in Article 8 of this Charter; and special operations shall be those financed from the Special Funds referred to in Article 10 of this Charter.
2. The ordinary capital resources and the Special Funds of the Bank shall at




all times and in all respects be held, used, committed, invested or otherwise disposed of entirely separately from each other.

3. (a) The ordinary capital resources shall not be charged with or used to discharge losses or liabilities arising out of special operations of the Bank for which the Special Funds were originally used or committed.
- (b) The Special Funds shall not be charged with or used to discharge losses or liabilities arising out of ordinary operations of the Bank for which ordinary capital resources were originally used or committed.
4. Expenses relating directly to ordinary operations and special operations shall be charged to ordinary capital resources and Special Funds respectively. Any other expenses shall be charged as the Bank shall determine.
5. The ordinary operations shall as a general policy provide loans and guarantees to public and private sub-regional and national Institutions. When loans are made to autonomous private Institutions, the Bank may seek guarantees from the governments concerned.

Article 13: Methods of Operation

1. Subject to the conditions set out in this Charter, the Bank may provide finances or facilitate financing in any of the following ways to any Institution, agency, entity or enterprise operating in the territories of the Member States:
 - (a) by making or participating in loans with its unimpaired paid-in capital, reserves and undistributed surplus or with the unimpaired Special Funds;
 - (b) by making or participating in loans with funds raised by the Bank in capital markets or borrowed or otherwise acquired by the Bank for inclusion in its ordinary capital resources;
 - (c) by the investment of funds referred to in paragraphs (a) and (b) of this Article in the equity capital of an institution or enterprise;
 - (d) by guaranteeing, in whole or in part, loans made by others for economic development or for the promotion of trade within the Common Market;
 - (e) by purchasing, selling, dealing in or trading securities, notes, bills of exchange, bankers' acceptances or any other negotiable instruments, species and currencies and loans or analogous instruments as any of principal, broker or agent;



- 
- (f) by making or receiving payments in any currency and for that purpose to maintain accounts in respective financial centres and take membership of associations, organisations or Institutions (whether bodies corporate, partnerships or otherwise) for the transmission, netting or settlement of payments;
 - (g) by issuing or giving guarantees or letters of credit, accepting, endorsing or availing bills of exchange, notes, bankers' acceptances or other negotiable instruments;
 - (h) by undertaking activities described in paragraphs (e), (f), and (g) hereof by borrowing or raising funds through the issuance of securities, whether listed or unlisted, private placements, loans and the issuance of certificates of deposit; and
 - (i) by such other finance instruments as may be determined by the Board of Directors from time to time.
2. The Bank may also provide re-financing and accept, endorse, discount and re-discount the trade bills of the Member States. Further, it may provide export credit insurance and re-insurance of export credit organisations where they exist in the Member States.
 3. The Bank may also establish and invest in any fund. Without limitation, the Bank's involvement in any fund may include participation as a limited partner, general partner or investment adviser and the Bank's return for such participation may include dividends, fees, stock, interest or any other financial reward howsoever structured or described.

Article 14: Limitations on Operations

1. The total amount outstanding of loan, equity investments, guarantees made, and credit extended, by the Bank in its ordinary operations shall not at any time exceed its ordinary capital resources then available for ordinary operations.
2. The total amount outstanding in respect of the special operations of the Bank relating to any Special Fund shall not at any time exceed the total amount of the unimpaired special resources appertaining to the Special Fund.
3. In the case of loans made with funds borrowed by the Bank to which the commitment to calls provided for in paragraph 4 of Article 7 of this Charter is applicable, the total amount of principal outstanding and payable to the Bank in



a specific currency shall not at any time exceed the total amount of the principal outstanding borrowings by the Bank that are payable in the same currency.

4. In the case of funds invested in equity capital out of the ordinary capital resources of the Bank, the total amount invested shall not exceed 50 per cent of the aggregate amount of the unimpaired paid-in capital stock of the Bank actually paid up at any given time together with the reserves and surplus included in its ordinary capital resources, excluding the Special Reserve.
5. The amount of any equity investment in any entity or enterprise shall not exceed such percentage of the equity capital of that entity or enterprise as the Board of Directors shall in each specific case determine to be appropriate. The Bank shall not seek to obtain by such investment a controlling interest in the entity or enterprise concerned, except where necessary to safeguard the investment of the Bank.
6. In the case of guarantees given by the Bank in the course of its ordinary operations, the total amount guaranteed shall not exceed 25 per cent of the aggregate amount of the unimpaired paid-in capital stock of the Bank actually paid up at any given time together with the reserve and surplus included in its ordinary capital resources, excluding the Special Reserve.

Article 15: Provision of Currencies for Loans and Other Financial Transactions

In making loans or in undertaking other financial transactions, the Bank may provide finance in the following ways:

- (a) by furnishing the borrower with currencies other than the currency of the Member State in whose territory the project is located, which are needed by the borrower to meet the foreign exchange cost of the project; or
- (b) by providing, where possible, local currency but not exceeding a reasonable portion of the total expenditure to be incurred by the borrower.

Article 16: Operating Principles

The operations of the Bank shall be conducted in accordance with the following principles;

- (a) the Bank shall be guided by sound banking principles in its operations



and shall finance only economically sound and technically feasible sub-regional and national programmes and projects;

- (b) in selecting projects, the Bank shall always be guided by the need to pursue the objectives set out in Article 4 of this Charter;
- (c) in providing development financing, the Bank shall endeavor to give preference to those sectors, programmes and projects which by their nature promote intra-Common Market trade and sub-regional economic integration and those sectors which are accorded priority by the Treaty;
- (d) the size, terms and conditions of individual loans shall be determined by the Board of Directors taking into account the nature of the resources, the type of programmes and projects and the special economic circumstances of Member States;
- (e) the Bank shall so conduct its operations as to earn a reasonable return on its capital;
- (f) the operations of the Bank shall provide principally for the financing of specific projects within the Member States but may include an extension of credit or refinancing or guarantees of extended credit made to the national, commercial, central and development banks and any other financial Institutions and the national development and trade promotion agencies of the Member States;
- (g) the Bank shall seek to maintain a reasonable diversification in its investments;
- (h) the Bank shall seek to revolve its funds by selling its investment in equity capital to other investors wherever it can appropriately do so on satisfactory terms;
- (i) the Bank shall not undertake any operation in the territory of any Member State if that Member State objects to such operation;
- (j) before an extension of credit is granted or guaranteed or an investment made, the applicant shall submit an adequate proposal to the Bank, and the Group Managing Director and the Chief Executive Officer of the Bank shall, jointly, present to the Board of Directors a written report regarding the proposal, together with their recommendations;
- (k) in considering an application for an extension of credit or guarantee,




the Bank shall pay due regard to the ability of the borrower to obtain finance or facilities elsewhere on terms and conditions that the Bank considers reasonable to the recipient, taking into account all relevant factors;

- (l) in making or guaranteeing an extension of credit or extending credit, the Bank shall pay due regard to the prospects that the borrower and its guarantor, if any, will be able to meet their obligations under the extended credit, loan or credit documents;
- (m) in making or guaranteeing a loan, the rate of interest, other charges and the schedule for repayment of principal shall be such as are, in the opinion of the Bank, appropriate for the loan concerned.
- (n) in guaranteeing a loan made by other investors or in underwriting the sale of securities the Bank shall charge a suitable fee or commission for its risk;
- (o) in the case of a loan or credit made by the Bank, the borrower shall be permitted by the Bank to draw the loan funds only to meet payments in connection with the project as they fall due;
- (p) the Bank shall take all necessary measures to ensure that the proceeds of any loan or credit made, guaranteed, or participated in by the Bank are used only for the purposes for which the loan was granted or credit made and with due attention to considerations of economy and efficiency; and
- (q) the Bank shall ensure that every loan or credit documents entered into by it shall enable the Bank to exercise all necessary powers of entry, inspection and supervision of operations in connection with the project and shall further enable the Bank to require the borrower to provide information and to allow inspection of its books and records during such time as any part of the loan remains outstanding.

Article 17: Terms and Conditions for Loans and Guarantees

1. In the case of loans made or participated in or loan guaranteed by the Bank, the loan or credit documents shall establish in conformity with the operating principles set out in Article 16 of this Charter and subject to the other provisions of this Charter, the terms and conditions of the loan or the guarantee concerned, including payment of principal, interest, commitment fee and other charges, maturities and dates of payment in respect of the loans or the fees and other charges in respect of the guarantee.



- 
2. The loan or credit documents shall provide that all payments to the Bank under the loan or credit documents shall be made in the currency loaned or any convertible currency as may be determined by the Bank.
 3. Guarantees by the Bank shall provide that the Bank may terminate its liability with respect to interest if upon default by the borrower or any other guarantee, the Bank offers to purchase, at par and interest accrued to a date designated in the offer, the bonds or other obligations guaranteed.
 4. Whenever the Bank considers it appropriate, the Bank may require a condition of granting or participating in a loan that the Member State in whose territory a project is carried out, or a public agency of the Member State acceptable to the Bank, guarantee the repayment of the principal and the payment of interest and other charges on the loan in accordance with the terms thereof.


Article 18: Defaults on Loans and Methods of Meeting Liabilities of the Bank

1. In the case of default on loans made, participated in or guaranteed by the Bank in its ordinary operations, the Bank shall take such action as it considers appropriate to protect its investment including modification of the terms of the loan, other than any terms as to the currency of repayment.
2. Payments in discharge of the liabilities of the Bank on borrowing or guarantees chargeable to the ordinary capital resources shall be charged to the extent necessary and at the discretion of the Bank, against other reserves, surplus and capital available to the Bank.
3. Whenever necessary to meet contractual payment of interest, other charges or amortisation or borrowings of the Bank in its ordinary operations or to meet its liabilities with respect to similar payments in relation to loans guaranteed by it, chargeable to its ordinary capital resources, the Bank may call an appropriate amount of the uncalled subscribed callable capital in accordance with the provisions of paragraph 4 and 5 of Article 7 of this Charter.

Article 19: Commission and Fees

1. In addition to interest, the Bank shall charge a commission on loans made and on the discounting, re-discounting, acceptances and endorsements of bills undertaken as part of its ordinary operations at a rate to be determined by the Board of Directors.



- 
2. In underwriting, distributing or placing securities and in leasing or chartering assets and in guaranteeing a loan and in purchasing, selling, discounting, accepting and endorsing trade bills of exchange, banker's acceptances, promissory notes, certificates of deposit or commercial paper as part of its ordinary operations, the Bank shall charge a fee at a rate determined by the Board of Directors.
 3. Other charges, including commitment fees of the Bank in its ordinary operations and any commission, fees or other charges in relation to its special operations, shall be determined by the Board of Directors:

Provided that such charges, commissions or fees shall be such that together with interest and other earnings shall enable the Bank to earn reasonable return on its capital.


Article 20: Special Reserve

Repealed by Resolution BG/18/02/05

Article 21: Borrowing, Investment and Other Powers of the Bank

1. The Bank shall be empowered to borrow funds in the manner the Board of Directors, guided by sound banking principles, may deem appropriate to achieve the objects of the Bank, inter alia:
 - (i) whenever concessional loans are available, the Bank shall give preference to concessional funds;
 - (ii) the Bank may borrow funds from any source for the purpose of financing development and trade;
 - (iii) the Bank may obtain lines of credit and special funds for specific projects and programmes; and
 - (iv) the Bank may accept deposits from other institutions on conditions to be determined by the Board of Directors.
2. Subject to the approval of its Board of Directors, the Bank shall be empowered to invest and in doing so it shall be guided by the following:
 - (i) the Bank may invest surplus funds as the Board of Directors may determine;
 - (ii) the Bank's policy on investment shall be intended to ensure maximum returns on its investments as well as sufficient liquidity for its operations;



- 
- (iii) the Bank may invest funds not immediately needed in its operations in such obligations as it may determine and invest funds held by the Bank for pension or similar purposes in marketable securities, but the Bank shall ensure that any funds which it may decide to invest in the territories of the Member States shall be invested, as nearly as possible, in equal proportions in each Member State;
 - (iv) the Bank may guarantee securities in which it has invested in order to facilitate their sale; and
 - (v) the Bank may enter into joint ventures with other regional and international Institutions.
3. The Bank shall charge for such technical advice and assistance as it may provide.
 4. The Bank shall study and promote investment opportunities within the Common Market.

Article 22: Allocation of Net Income

1. The Board of Governors on the recommendation of the Board of Directors shall determine annually what part of the net income of the Bank, including the net income accruing to the Special Funds, shall be allocated, after making provisions for reserves, to surplus and what part, if any, shall be distributed among the Shareholders of the Bank in form of dividend or otherwise.
2. Any distributions referred to in Paragraph 1 of this Article, shall be declared and paid according to the amounts paid up on the shares on which the distribution is paid. Distributions shall be made in such manner and in such currency as the Board of Directors shall determine. This may include a distribution of further shares treated as fully paid up or the ability of a Shareholder to opt for dividend entitlement to be met by way of an issue of fully paid shares. The Board of Directors in making the forgoing determinations may draw a distinction between and among Class A, Class B and Class C Shares. If a Shareholder has failed to meet a payment obligation in respect of a share then any distribution or other entitlement shall first be set off against that unpaid obligation.

Article 23: Notice to be placed on Securities

Every security issued or guaranteed by the Bank shall bear on its face a conspicuous statement to the effect that it is not an obligation of any government unless it is in fact the obligation of a particular government in which case it shall so state.



Article 24: Currencies

1. Whenever it shall become necessary under this Charter to determine whether any currency is convertible, such determination shall be made by the Bank after consultation with the International Monetary Fund.
2. The Member States may not maintain or impose any restrictions on the holding or use by the Bank or by any recipient from the Bank for payment in any country of the following:
 - (a) currencies received by the Bank in payment of subscriptions to its capital stock;
 - (b) currencies purchased with the currencies referred to in sub-paragraph (a) of this paragraph;
 - (c) currencies received by the Bank by borrowing for inclusion in its ordinary capital resources;
 - (d) currencies received by the Bank in payment of principal, interest, dividends or other charges in respect of loans or investments made out of any of the funds referred to in sub-paragraphs (a), (b) and (c) of this paragraph or in payment of fees in respect of guarantees made and other services rendered by the Bank; and
 - (e) currencies received from the Bank in the distribution of the net income of the Bank in accordance with the provision of Article 22 of this Charter.
3. The Member States may not maintain or impose any restriction on the holding or use by the Bank or any recipient from the Bank for payments in any country, of currency received by the Bank which does not come within the provisions of paragraph 2 of this Article unless such currency forms part of the Special Funds of the Bank and its use is subject to special regulations.
4. The Member States may not maintain or impose any restrictions on the holding or use by the Bank, for making amortisation payments or for repurchasing in whole or in part the obligations of the Bank of currencies received by the Bank in repayment of loans made out of its ordinary capital resources.
5. Each Member State shall ensure, in respect of projects within its territories, that the currencies necessary to enable payments to be made to the Bank in accordance with the provisions of the contracts referred in Article 17 of this Charter shall be made available in exchange for the currency of the Member State concerned.



Article 25: Organisation and Management

TDB Group shall have a Board of Governors, a Board of Directors, a Group Managing Director, Chief Executive Officers and such other officers and staff as it may consider necessary.

Article 26: Board of Governors - Composition and Functions

1. Each Shareholder, other than (i) a Shareholder holding only Class C shares and (ii) to the extent that Shareholder holds any Class C share, shall appoint one Governor and one alternate. No alternate may vote except in the absence of his or her principal. The Board of Governors shall select one of the Governors as Chairperson who shall hold office until the next regular meeting of the Board of Governors. The voting power of each Governor shall be the same as that of the Member appointing him or her.
- 1(A). Shareholders holding Class C shares, whether individually or collectively, shall not be entitled to appoint a Governor or an alternate with respect to their Class C shareholding. However, they shall, collectively, be represented by a trustee approved by the Board of Directors, who may attend the annual meeting of the Board of Governors as an observer in the capacity of trustee for Shareholders holding Class C shares.
2. The Board of Governors shall be the supreme governing body of TDB Group in whom all the powers of TDB Group under this Charter shall be vested. The Board of Governors shall more particularly exercise the powers and perform the following functions and duties:-
 - (a) appoint, on the recommendation of the Board of Directors or another body designated by the Board of Governors, the Group Managing Director and determine his term of service;
 - (b) discuss and give guidance to the Board of Directors as appropriate with respect to:
 - (i) the operations of TDB Group;
 - (ii) the Annual Report of TDB Group; and
 - (iii) any matters which the Board of Directors may refer to it.
 - (c) approve the Consolidated Annual Accounts of TDB Group;
 - (d) approve any distribution or other allocation of net income by the Board of Directors;



- (e) approve the appointment of external auditors or such other experts as may be necessary to examine and report on the general management of TDB Group;
- (f) take decisions on any increase in the authorised capital stock in accordance with the provisions of paragraph 4 of Article 6 of this Charter.
3. With the exception of powers set out in paragraph 2 of this Article, the Board of Governors may delegate its powers to the Board of Directors or to any such body as referred to in paragraph 8 of this Article.
4. The Board of Governors shall retain full power to exercise authority over any matter delegated to the Board of Directors under paragraph 3 or to such bodies referred to in paragraph 8 of this Article.
5. The Board of Governors shall determine its own procedure, including that for convening its meetings, for the conduct of business thereat and at other time, and for rotation of the office of the Chairperson among themselves.
6. A quorum of any meeting of the Board of Governors shall be a majority of the total number of Governors or their alternates representing not less than two thirds of the total voting power of the Members.
7. The Board of Governors may by regulation establish a procedure whereby the Board of Directors may, when it deems such action advisable, obtain a vote of the Governors on a specific question without calling a meeting of the Board of Governors.
8. The Board of Governors may establish such bodies, whether as committees, bureaux or howsoever otherwise called, to which the Board of Governors may delegate its powers and in relation to the Board of Governors itself or such aforesaid bodies, may adopt such rules and regulations as may be necessary or appropriate to conduct the business of the Bank provided the rules and regulations shall be supplemental to, and not inconsistent with, the Charter.

Article 27: Board of Directors - Composition and Functions

1. (a) The Board of Directors shall consist of not more than ten (10) Non-Executive Directors (in addition to the Group Managing Director) appointed by the Board of Governors after their nomination as follows:-



- (i) Five (5) Directors and their alternates for the Member States following their nomination by five constituencies formed by countries in groups agreed by the Board of Governors;
 - (ii) One (1) Director nominated by non-African states;
 - (iii) One (1) Director nominated by African Institutions;
 - (iv) One (1) Director for all other Shareholders; and
 - (v) Two (2) independent Directors selected by the Nomination Committee of the Board of Directors and confirmed by the Chairperson of the Board of Governors.
- (b) The Chief Executive Officer of the Bank shall attend Meetings of the Board of Directors of the Bank in an ex officio capacity.
 - (c) The Group Managing Director will be a member of the Board of Directors (but shall not be entitled to appoint an alternate). He or she shall be entitled to invite to attend Board Meetings such members of his or her senior management team and other officials of the Bank and any adviser, consultant, technical expert and specialist as may be required or necessary from time to time.
 - (d) The Board of Governors may, from time to time consider the size and composition of the Board of Directors and by a vote of not less than two thirds of the Shareholders present create additional board seats for one or more Class A or B shareholding groups.
2. All Directors shall be persons possessing high competence and wide experience in economic, financial and banking affairs.
3. Directors shall hold office for a term of three years provided that:
- (a) Director shall remain in office until his successor has been appointed;
 - (b) Director appointed in place of one whose office has become vacant before the end of his term shall hold office only for the remainder of that term.

Notwithstanding the foregoing, the Board of Governors shall make such arrangements as appropriate to provide for retirement by rotation or the re-appointment of Directors.

4. Each Director (other than a Director representing the Member States where



the alternate is appointed by the Board of Governors) shall be entitled to appoint an alternate Director from time to time. Any alternate Director shall have full power to act for the Director to whom he or she is an alternate, if such Director is not present. An alternate Director may participate in meetings of the Board of Directors but may vote only when he or she is acting in place of and in the absence of the Director to whom he or she is an alternate.

5. While the office of a Director is vacant the alternate of the former Director shall exercise the powers of that Director.
6. Without prejudice to the powers of the Board of Governors as provided in Article 26 of this Charter, the Board of Directors shall be responsible for conduct of the general operations of the Bank and for this purpose shall, in addition to the powers provided for it expressly in this Charter and the powers delegated to it by the Board of Governors, in particular:
 - (a) prepare the work of the Board of Governors;
 - (b) appoint such technical or other sub-committees as it deems necessary;
 - (c) determine the organisation and offices of the Bank and prescribe the responsibilities attached to the administrative and professional offices of the Bank;
 - (d) approve the budget of the Bank;
 - (e) in conformity with the general directive of the Board of Governors, take decisions concerning particular loans, guarantees, investment in equity capital and borrowing of funds by the Bank and on similar financial transactions;
 - (f) determine the rates of interest for loans, commissions and fees for guarantees and other financial transactions of a similar kind; and
 - (g) submit the accounts for each financial year and annual report for approval to the Board of Governors at each annual meeting.

Article 28: Procedures of the Board of Directors

1. The Board of Directors shall meet at venues to be determined and shall meet at least once every three months or more frequently if the business of the Bank so requires. The Board of Directors shall prescribe rules of procedure governing its meetings.



2. The Board of Directors shall appoint from amongst themselves a Chairperson and Vice Chairperson at all their meetings. The Chairperson and Vice Chairperson shall serve in their respective capacities for one year. The regular meetings of the Board of Directors shall be convened by the Chairperson or in his absence by a Vice Chairperson.

(i) Meetings other than regular meetings shall be convened:-

a) whenever the Chairperson or in his or her absence the Vice-Chairperson deems it necessary or desirable; or

(b) whenever a two-third majority of the members of the Board of Directors so request.

(ii) Meetings of the Board of Directors on matters involving the appointment, suspension and dismissal of a Chief Executive Officer shall be conducted in accordance with the rules and procedures established for those purposes under this Charter or the relevant constitutive documents, as applicable.

3. The Chairperson of the Board of Directors shall, subject to the provisions of paragraph 3 of Article 29 hereof cast his or her vote. In the event that the votes for each side of the motion are equal, the Chairperson shall cast a deciding vote.


4. A quorum of any meeting of the Board of Directors shall be a majority of the total number of directors representing not less than two thirds of the voting rights of the Bank.

5. The Board of Directors may, by regulations, establish a procedure whereby the decision of a simple majority of all members of the Board made in writing, following the circulation of all material documents to all the members of the Board of Directors shall be as valid and effectual as if it had been made at a meeting of the Board of Directors.

Article 29: Voting

1. Subject to the provisions of Article 7, the voting power of each Member shall be equal to the number of shares of the capital stock of the Bank held by that Member provided, however, that (i) for the Members in arrears on their paid-in shares the voting powers will be reduced in the proportion that paid up amount bears to the unpaid amount, and (ii) Class C shares shall carry no voting powers and shall, under no circumstance, be reckoned for purposes of allocating voting powers or computing the Bank's statement of voting powers.



- 
2. In voting in the Board of Governors:
 - (a) each Governor shall be entitled to cast the number of votes of the Member State or Member which appointed him or her and which he or she represents;
 - (b) except as otherwise expressly provided in this Charter all matters before the Board of Governors shall be decided by a majority of the voting power present at the meeting.
 3. In voting in the Board of Directors:
 - (a) each Director shall be entitled to cast the number of votes of those Members whom he or she represents, which votes need not be cast as a unit;
 - (b) notwithstanding paragraph 3(a) of this Article 29, the business of the Board of Directors will initially be decided on a show of hands at which point the Group Managing Director and each independent Director shall have one vote each as shall all the other Directors. The voting provided for in paragraph 3(a) of this Article 29 shall only apply if prior to or following such vote by a show of hands one of the other Directors so request it at the same meeting at which the vote is being taken; and
 - (c) except as otherwise expressly provided in this Charter all matters before the Board of Directors shall be decided by a majority of the total voting power of the Members.

Article 30: Group Managing Director and Management of TDB Group

1. The Group Managing Director shall be a person of integrity and of the highest competence and proven track record in the businesses, management and administration of TDB Group and shall always be a national of a Member State which is a member of the Common Market. While holding this office, the Group Managing Director shall not be a Governor or an alternate to a Governor. Further, the Group Managing Director shall not perform any other duties or functions outside TDB Group which in the opinion of the Board of Directors is incompatible with his or her office, duties and services as Group Managing Director.
2. Subject to the provisions of paragraph 4 of this Article, the Group Managing Director shall hold his or her office as Group Managing Director for a term of five years renewable only once at the discretion of the Board of Governors.



A Group Managing Director shall not serve for more than two terms of five years each as Group Managing Director.

3. (i) The Board of Directors may on a majority of two thirds of the total voting power at the meeting recommend to the Board of Governors the suspension of the Group Managing Director and recommend the appointment of an acting Group Managing Director.
- (ii) The suspension of the Group Managing Director and the appointment of an acting Group Managing Director shall be in accordance with the rules and procedures established by the Board of Governors under this Charter.
4. The Board of Governors shall have the power to dismiss and suspend the Group Managing Director by a simple majority of the voting power of the Members present upon the recommendation of the Board of Directors made pursuant to a decision of the Board of Directors taken by a majority of two-thirds of the total voting power at the meeting.
5. If the office of the Group Managing Director becomes vacant for any reason a successor shall be appointed for a new term of five years.
6. The Group Managing Director shall be the legal representative of TDB Group.
7. The Group Managing Director shall conduct under the direction of the Board of Directors the current business of TDB Group.
 - (i) He or she shall be responsible for the organisation, appointment, suspension and dismissal of the officers and staff of TDB Group in accordance with the TDB Group rules and regulations of employment.
 - (ii) He or she shall, in consultation with the Board of Directors, recommend the appointment of the Chief Executive Officers, each of whom shall be a person of integrity with proven track record and highest competence in the business and commercial operations pertaining to his or her function as Chief Executive Officer. Subject to the provisions of paragraph 7(i) of this Article, each Chief Executive Officer shall hold his or her office as Chief Executive Officer for a term of five years renewable only once at the discretion of the Board of Governors. A Chief Executive Officer shall not serve for more than two terms of five years each as Chief Executive Officer.
 - (iii) If the office of any Chief Executive Officer becomes vacant for any reason a successor shall be appointed for a new term of five years.



8. The majority of the members of staff and officers of TDB Group shall always be nationals of the Member States, provided always that the Chief Executive Officers, the Group Chief Risk Officer, the Group Corporate Secretary, the Group General Counsel, and such other senior officers of TDB Group as may be determined by the Board of Directors on the recommendation of the Group Managing Director, shall, each, be a national of a Member State which is a member of the Common Market.
9. (a) Subject to paragraph (b) below, in appointing officers and staff to TDB Group, regard shall be had to the desirability of maintaining an equitable distribution of appointments to such offices among citizens of all Member States and people of African descent from such Member States even though now citizens of other countries.
- (b) Notwithstanding paragraph (a) above, (i) the paramount consideration in making such appointments will be securing the highest standards of integrity, efficiency and technical competence, and (ii) the distribution of appointments of management and professional staff of TDB Group among citizens of all Member States shall be subject to a maximum cap of 20 per cent of the total management and professional workforce of TDB Group for each Member State.
10. The Group Chief Risk Officer, the Group General Counsel or any senior officer of TDB Group may be appointed by the Group Managing Director to perform the duties and exercise the powers of the Group Managing Director in the event of the temporary absence or incapacity of the Group Managing Director.
11. The Group Managing Director, officers and staff of TDB Group, in the discharge of their offices owe their duty entirely to TDB Group and to no other authority. Each Member of the Bank shall respect the international character of this duty and shall refrain from all attempts to influence the Group Managing Director or any of the officers and staff of TDB Group in the performance of their functions.

Article 31: Prohibition of Political Activity

1. TDB Group shall not accept loans, Special Funds or assistance that may in any way prejudice, limit, deflect or otherwise alter its objectives or functions.
2. TDB Group, its Group Managing Director, Chief Executive Officers, officers and staff shall not interfere in the political affairs of any Member State nor shall they be influenced in their decisions by the political character of a Member State. Only economic and financial considerations and such



objectives as set out in Article 4 of this Charter shall be relevant to their decisions.



Article 32: Principal Offices and Offices of TDB Group

1. The principal office(s) of the Bank shall be situated in the territories of the Member States selected by the Board of Governors which in the opinion of the Board of Governors offer adequate and necessary facilities for the proper functioning of the Bank.
2.
 - (a) The Bank may establish (i) regional offices or branch offices in the territories of any of its Eligible Member States and (ii) representative offices or agencies elsewhere.
 - (b) The Bank may establish agencies, subsidiaries, funds or joint venture entities with a view to achieving the overall objectives of the Bank as set out under the Charter. The agencies, subsidiaries, funds or joint venture entities so established shall operate in accordance with the provisions of their respective constitutive documents approved by the authority of the Board of Governors.
3. In the event that the Board of Directors decides that any such agency, subsidiary, fund or joint venture entity is performing activities on behalf of the Bank which are intended to advance the objectives of the Bank then the Board of Directors may by resolution specify:
 - a) the provisions as set out under Articles 42 and 43 of the Charter that shall apply to such agencies, subsidiaries, funds or joint venture entities;
 - b) the activities to which such provisions shall apply; and
 - c) any other terms and conditions on which such provisions shall apply.
4. Those provisions set out under Articles 42 and 43 of this Charter which are applicable to the said agencies, subsidiaries, funds or joint venture entities as aforesaid shall be subject to the same terms and conditions as those applicable to the Bank, its assets, staff, directors and other officers.
5. All Member States and those African States which are Members but not Member States, shall ensure that the provisions of their domestic law are such as to vest the aforesaid immunities, exemptions and privileges in such agencies, subsidiaries, funds and joint ventures, their assets, staff, directors and other officers.



Article 33: Channels of Communication and Depositories

1. Each Member of the Bank shall designate an appropriate official, entity or person with whom the Bank may communicate in connection with any matter arising under this Charter.
2. Each Member State shall designate its Central Bank, or such other agency as may be agreed upon with the Bank, as a depository with which the Bank may keep its holdings of currency and other assets.

Article 34: Working Languages

The working languages of the Bank shall be English and French.

Article 35: Accounts and Reports

1. The Board of Directors shall ensure that proper accounts and proper records are kept in relation to the operations of the Bank and such accounts shall be audited in respect of each financial year by auditors of high repute appointed by the Board of Governors.
2. The Bank shall prepare and transmit to the Board of Governors and to the Members of the Bank, and shall also publish, an annual report containing an audited statement of its accounts.
3. The Bank shall prepare and transmit to its Members an annual statement of its financial position, and a profit and loss statement showing the results of its operations.
4. All financial statements of the Bank shall show its ordinary operations. The operations of each Special Fund shall be shown separately.
5. The Bank may also publish other reports as it considers desirable for achieving its objectives and such reports shall be transmitted to the Members of the Bank.

Article 36: Withdrawal of Members

1. A Member of the Bank which is a Member State may not withdraw from the Bank.
2. Subject to the provisions of this Charter and any regulation made as a supplement thereto, any Member of the Bank other than a Member State, wishing to withdraw from the Bank shall give to the Group Managing Director one year's written notice of its intention to withdraw and at the end



of such year shall, if such notice is not withdrawn, cease to be a Member of the Bank.

3. During the period of one year referred to in paragraph 2 of this Article a Member of the Bank other than a Member State, wishing to withdraw from the Bank shall nevertheless observe the provisions of this Charter and shall remain liable for the discharge of its obligation under this Charter.
4. Notwithstanding any other provision of this Article 36, any Member shall be entitled to transfer its shares in accordance with paragraph 6 of Article 6 save that (i) a Member State shall not transfer any Class A Shares other than in exceptional circumstances and subject to express approval of the Board of Governors; and (ii) Class C shares shall be eligible for transfer in the ordinary course of trading on a regulated stock exchange, and post allotment and issuance, shall be redeemable only at the Bank's option, on such terms and conditions as may be determined by the Board of Directors.

Article 37: Suspension of Membership

1. Without prejudice to Articles 7(A) and 7(B), if a Member of the Bank fails to fulfill its obligations to the Bank, the Board of Governors may suspend such Member by a majority of the total voting power of the Bank.
2. If the Board of Governors determines that the continuing ownership of shares by a Member, which is a public or private Institution or corporate body, would give rise to a risk of causing, or does cause, a legal, pecuniary, reputational, regulatory, tax or material administrative disadvantage for the Bank or to its Members, the Board of Governors may suspend such Member, which is a public or private Institution or corporate body, by a majority of the total voting power of the Bank.
3. The Member so suspended shall automatically cease to be a Member of the Bank one year from the date of its suspension unless the Board of Governors decides, within that period and by the same majority necessary for suspension, to restore the Member to good standing.
4. While under suspension, a Member shall not be entitled to exercise any right under this Charter but shall remain subject to all its obligations.

Article 38: Settlement of Accounts

1. (a) For the purpose of this Article the words "the relevant date" shall mean in respect of any Member of the Bank either the date on which the Member delivered a notice of withdrawal in accordance with the provisions of Article 36 of this Charter or, as the case may be, the



date on which that Member ceased to be a Member in accordance with the provisions of Article 37 of this Charter.

(b) After the relevant date, a Member of the Bank shall remain liable to any balance required by the Bank to be paid by the Member on account of the amount originally subscribed for its shares and for any calls made by the Bank pursuant to the provisions of paragraph 4 of Article 7 of this Charter in respect of the contingent liability of that Member for any calls made by the Bank in respect of that Member's shares after the relevant date to meet obligations of the Bank resulting from any loans, guarantees or obligations contracted by the Bank before the relevant date but such Member shall not incur liability with respect to loans, guarantees or obligations entered into by the Bank after the relevant date nor shall share either in the income or the expense of the Bank after the relevant date.

2. At the time a Member ceases to be a Member of the Bank the Bank may arrange for the repurchase of its shares as part of the settlement of accounts with such Member in accordance with the provisions of paragraphs 3 and 4 of this Article. If the Bank elects to repurchase the shares then the relevant Member shall agree to such repurchase in accordance with the terms of this Article. For this purpose, the repurchase price of the shares shall be determined by the Board of Directors based on a valuation methodology recommended by an independent accounting firm of high repute and adopted by the Board of Directors from time to time.

3. The payment for shares repurchased by the Bank under this Article shall be governed by the following conditions:

(a) any amount due to the Member concerned for its shares shall be withheld so long as that Member remains liable immediately, in the future or contingently as a borrower or guarantor, to the Bank and such amount may, at the option of the Bank, be applied to any such liability as it matures.

No amount shall be withheld on account of the contingent liability of the Member for future calls on its subscription for shares in accordance with the provisions of paragraph 4 of Article 7 of this Charter. In any event, no amount due to a Member for its share shall be paid until twelve months after the date on which the Member ceases to be a Member of the Bank;

(b) Payments for shares may be made from time to time, upon their surrender by the Member concerned, to the extent by which the



amount due as the repurchase price in accordance with paragraph 2 of this Article exceeds the aggregate amount due immediately, in the future or contingently from such Member as a borrower from or a guarantor to the Bank as referred to in sub-paragraph (a) of this paragraph, until the former Member has received the full repurchase price;

- (c) Payments shall be made in such available currencies as the Bank shall determine, taking into account its financial position;
 - (d) If losses are sustained by the Bank on any guarantees, loans, insurance, reinsurance or other undertaking which were outstanding on the date when a Member ceased to be a Member of the Bank and the amount of such losses exceed the amount of any reserve specifically provided against such losses on that date, the Member concerned shall repay, upon demand, the amount by which the repurchase price of its shares would have been reduced if the losses had been taken into account when the repurchase price was determined. In addition, the former Member shall remain liable on any call for unpaid subscription in accordance with the provisions of paragraph 4 of Article 7 of this Charter, to the same extent that it would have been required to respond if the impairment of capital had occurred and the call had been made at the time the repurchase price of its shares was determined; and
 - (e) nothing herein contained shall render any Member whether or not it shall cease to be a Member of the Bank liable in its capacity as a Member or former Member of the Bank for any sum or sums in excess of the portion of the issue price of its shares for the time being unpaid.
4. If the Bank terminates its operations in accordance with the provisions of Article 39 of this Charter within twelve months of the date upon which any Member ceases to be a Member of the Bank, all rights of the Member concerned shall be determined in accordance with the provisions of Articles 39, 40 and 41 of this Charter. Such Member shall be considered as still a Member for the purpose of such Articles but shall have no voting rights.
5. The Board of Governors may adopt such supplemental regulations regarding the settlement of accounts of any Shareholder withdrawing from the Bank, to the extent that such regulations are not inconsistent with the provisions of this Charter.



Article 39: Termination of Operations

1. This Charter shall have indefinite duration.
2. Notwithstanding the provisions of paragraph 1 of this Article, the Bank may terminate its operations by resolution of the Board of Governors approved by a vote representing not less than 85 per cent of the total voting power of the Members of the Bank.
3. After the operations of the Bank have been terminated in accordance with the provisions of paragraph 2 of this Article, the Bank shall forthwith cease all activities, except those incidental to the orderly realisation, conservation and preservation of its assets and the settlement of its obligations.

Article 40: Liability of Members and Payment of Claims

1. In the event of termination of the operations of the Bank, the liability of all Members for uncalled subscriptions to the capital stock of the Bank shall continue until all claims of creditors including all contingent claims, shall have been discharged.
2. All creditors holding direct claims shall first be paid out of the assets of the Bank and then out of payments to the Bank on unpaid or callable subscriptions. Before making any payments to creditors holding direct claims, the Board of Directors shall make such arrangements as are necessary, in its judgment, to ensure a pro rata distribution among holders of direct and contingent claims.

Article 41: Distribution of Assets

1. No distribution of assets shall be made to Members of the Bank on account of their subscriptions to the capital stock of the Bank until all liabilities to creditors shall have been discharged or provided for and any such distribution shall be approved by the Board of Governors on the recommendation of the Board of Directors by a vote representing not less than 85 per cent of the total voting power of the Members of the Bank.
2. Any distribution of the assets of the Bank to its Members shall be in proportion to the capital stock held by each Member and shall be effected at such times and under such conditions as the Bank shall consider fair and equitable. The shares of assets distributed need not be uniform as to type of asset. No Member shall be entitled to receive its share in such a distribution of assets until it has settled all of its obligations to the Bank.



3. Any Member of the Bank receiving assets distributed pursuant to this Article shall enjoy the same rights with respect to such assets as the Bank enjoyed prior to their distribution.

Article 42: Judicial Proceedings

1. The Bank shall enjoy immunity from every form of legal process except in cases arising out of or in connection with the exercise of its borrowing powers when it may be sued only in a court of competent jurisdiction in the territories of such Member State(s) in which the Bank has its principal office(s), or in the territory of a Member State or non-Member State where it has appointed an agent for the purpose of accepting service or notice of process has been issued or guaranteed securities.
2. Notwithstanding the provisions of paragraph 1 of this Article, no action shall be brought against the Bank by Members of the Bank or persons acting for or deriving claims from them. However, Members of the Bank shall have recourse to such special procedures for the settlement of disputes between the Bank and its Members as may be prescribed in this Charter or in the regulation of the Bank made in accordance with the terms of contracts entered into with the Bank.
3. The immunities provided in this Article 42 are in the interest of the Bank. The Group Managing Director may waive the immunities referred to in paragraph 1 of this Article to such extent and upon such conditions as he or she may determine in cases where such waiver would in his or her opinion further the interests of the Bank.
4. Notwithstanding the provisions of paragraphs 1 and 3 of this Article, the property and assets of the Bank shall, wherever located and by whomever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

Article 43: Status, Capacity, Immunities and Privileges

1. To enable the Bank to achieve its objectives and perform the functions with which it is entrusted, the status, capacity, privileges, immunities and exemptions set out in paragraphs 3 to 10 of this Article shall be accorded with respect to the Bank in the territory of each Member State. In particular:-
 - a. any Eligible Member State that accedes to the membership or benefits from Bank funding shall first accede to the Agreement on Privileges and Immunities adopted by the PTA Member States in December 1984 and shall take immediate steps to ratify and implement the same under that Eligible Member State's domestic law; and



- b. non-COMESA African states when joining the Bank shall in the Deed of Accession to the membership of the Bank undertake to (i) vest the Bank with the same immunities, privileges and exemptions provided for in this Charter and (ii) recognise the Bank's Charter in their domestic law.
2. The Bank shall possess full juridical personality and, in particular, full capacity:
- (a) to enter into contracts;
 - (b) to acquire and dispose of immovable or movable property; and
 - (c) to institute legal proceedings.
3. The principal as well as regional offices of the Bank shall be inviolable. The property and assets of the Bank shall be immune from search, requisition, confiscation, expropriation, and any other form of interference whether by legislative, executive, judicial or administrative action.
4. The archives of the Bank and in general all documents belonging to it or held by it, shall be inviolable.
5. The official communications of the Bank shall be accorded by each Member State the same treatment that it accords to the official communications of other Member States or international organisations including diplomatic missions.
6. (a) The Bank, its property, other assets, income and its operations and transactions, shall be exempt from all taxation and from all customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Bank for its official use. The Bank shall also be exempt from any obligation relating to the payment, withholding or collection of any tax or duty;
- (b) No tax of any kind shall be levied on any obligations or securities issued by the Bank, including any dividend or interest thereon, by whomever held:
- (i) which discriminates against such obligations or security solely because it is issued by the Bank; or
 - (ii) if the sole reason for the imposition of such a tax is the place or currency in which such obligations or securities are issued, made payable or paid or the location of any office maintained by the Bank.



- b. non-COMESA African states when joining the Bank shall in the Deed of Accession to the membership of the Bank undertake to (i) vest the Bank with the same immunities, privileges and exemptions provided for in this Charter and (ii) recognise the Bank's Charter in their domestic law.
2. The Bank shall possess full juridical personality and, in particular, full capacity:
- (a) to enter into contracts;
 - (b) to acquire and dispose of immovable or movable property; and
 - (c) to institute legal proceedings.
3. The principal as well as regional offices of the Bank shall be inviolable. The property and assets of the Bank shall be immune from search, requisition, confiscation, expropriation, and any other form of interference whether by legislative, executive, judicial or administrative action.
4. The archives of the Bank and in general all documents belonging to it or held by it, shall be inviolable.
5. The official communications of the Bank shall be accorded by each Member State the same treatment that it accords to the official communications of other Member States or international organisations including diplomatic missions.
6. (a) The Bank, its property, other assets, income and its operations and transactions, shall be exempt from all taxation and from all customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Bank for its official use. The Bank shall also be exempt from any obligation relating to the payment, withholding or collection of any tax or duty;
- (b) No tax of any kind shall be levied on any obligations or securities issued by the Bank, including any dividend or interest thereon, by whomever held:
- (i) which discriminates against such obligations or security solely because it is issued by the Bank; or
 - (ii) if the sole reason for the imposition of such a tax is the place or currency in which such obligations or securities are issued, made payable or paid or the location of any office maintained by the Bank.



- (c) If a Member State breaches paragraph 6 of this Article then the Bank shall have the right to set off that Member State's distribution entitlement under Article 22 of the Charter against any liability incurred by the Bank as a result of that Member State's breach under this Article 43 in respect of which liability the Bank has made demand and served notice that the Bank's right to set off will be exercised over, and set off applied in respect of, such dividend accordingly.

7. The Bank:

- (a) may hold assets of any kind and operate accounts in any currency; and
- (b) shall be free to transfer its assets from one country to another and to convert any currency held by it into any other currency without being restricted by controls, regulations, restrictions or moratoria of any kind.

8. All Governors, Directors, alternates, officers and staff whose names and categories are specified by the Group Managing Director and approved by the Council shall enjoy in the territories of the Member States of the Bank the same privileges and immunities as those enjoyed by the representatives of the Member States and the employees of the Common Market of similar rank.
9. All officials of the Bank shall be provided with special identity cards certifying that they are officials of the Bank enjoying the privileges and immunities specified in this Charter.
10. Without prejudice to the foregoing provisions, the Member States undertake to accord to all representatives of the Member States, all officials of the Bank and experts providing advice or assistance to the Bank, such facilities and courtesies as are necessary for the exercise of their functions in connection with the Bank. All such persons shall more particularly, in pursuance of the provisions of this Charter, have the right of entry into, sojourn, or exit as is necessary for the purpose of performing their duties. They shall be granted facilities for speedy travel and visas, where required, shall be granted promptly and free of charge.
11. TDB Group shall prevent its premises from becoming a refuge for fugitives from justice or for persons subject to extradition or persons avoiding service or legal process or judicial proceedings.
12. The Group Managing Director shall have the right and duty to waive



the immunity of any official of TDB Group in cases where in his or her opinion the immunity would impede the cause of justice and can be waived without prejudice to the interests of TDB Group.

13. TDB Group shall co-operate at all times with the appropriate authorities of the Member States to facilitate the proper administration of justice, secure the observance of national laws, and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Article.

Article 44: Amendment of the Charter

1. This Charter may be amended only by the Board of Governors of the Bank by a two-thirds majority of the total voting power of the Bank including at least two thirds of the votes of Shareholders which are Member States or African Institutions. For the avoidance of doubt, this includes both holdings of Class A shares and Class B shares.
2. When an amendment has been adopted the Bank shall certify it in a formal communication addressed to all Members. Amendments shall enter into force for all Members three calendar months after the month in which such communication is issued, unless the amendment referred to in paragraph 1 of this Article specifies therein a different period.
3. Notwithstanding the provisions of paragraph 1 of this Article, the unanimous agreement of the Board of Governors shall be required for the approval of any amendment of the Charter modifying:
 - (a) the right of a Member to withdraw from the Bank as provided in Article 36 of this Charter;
 - (b) the right to subscribe to capital stock of the Bank as provided in paragraph 4 of Article 6 of this Charter; and
 - (c) the limitation on liability as provided in paragraphs 7 and 8 of Article 6 of this Charter;

Article 45: Interpretation or application

Merged with Article 46



Article 46: Interpretation or application of the Charter and Settlement of Disputes

1. Any question of interpretation or application of the provisions of this Charter arising between Shareholders inter se or between a Shareholder and the Bank shall be submitted to the Board of Directors for decision. In any case where the Board of Directors has given a decision, the Shareholder concerned may require that the question be referred to the Board of Governors, whose decision shall be final and binding. Pending the decision of the Board of Governors, the Bank may act on the basis of the decision of the Board of Directors. The foregoing procedure shall be applicable in lieu of any judicial or arbitral procedure for the settlement of disputes and neither the Bank nor any Shareholder or former Shareholder may bring an action in court in respect thereof, except in order to enforce a decision of the Board of Directors or the Board of Governors. In the event of a dispute between a former Member or between the Bank and a Member upon the termination of the operations of the Bank, such dispute shall be submitted to arbitration by a tribunal of three arbitrators. Each party shall appoint one arbitrator and the two arbitrators so appointed shall appoint a third who shall be the Chairperson. The procedure adopted shall be that set out in the UNCITRAL Rules from time to time.
2. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding on the parties and a decision of the arbitrators may include an order as to payment of costs and expenses.

Article 47: Power to Make Regulations

Subject to the provisions of this Charter, the Board of Governors may make such regulations, including financial regulations and limits that may be imposed on the operations of TDB Group, being consistent with the provisions of this Charter, as it considers necessary or appropriate to further the objectives and functions of TDB Group.

Article 48: Final Provisions

1. The Charter, of which the English and French texts are equally authentic, shall be deposited with the Executive Secretary of the United Nations Economic Commission for Africa.
2. The Charter shall enter into force at a date decided upon by the Council.
3. Any of the States, bodies corporate, enterprises and Institutions referred to in Article 3 of this Charter which are desirous of becoming Members of the



Bank after the coming into force of this Charter shall submit a request for accession to the Group Managing Director who will thereafter submit the request to the Board of Governors for approval.

4. The Group Managing Director shall transmit certified copies of this Charter and advice concerning acceptance, approval or accession to this Charter to the Members of the Bank, the Secretary of the Common Market and to such other international organisations as the Board of Governors shall determine.

Article 49: Commencement of Operations

1. Upon the entry into force of this Charter each Member shall appoint a Governor in accordance with the provisions of Article 26 of this Charter and the Secretary General of the Common Market shall call the first meeting of the Board of Governors of the Bank.
2. The meeting referred to in paragraph 1 of this Article shall:
 - (a) elect the Chairperson of the Board of Governors pursuant to the provisions of paragraph 1 of Article 26 of this Charter;
 - (b) appoint the President and other core staff of the Bank;
 - (c) give such directions to the Board of Directors and other organs of the Bank as are necessary for the expeditious and effective implementation of the Charter.
3. Within three months of the entry into force of this Charter, the Members of the Bank shall appoint the Members of the Board of Directors. The Board of Directors shall within one month of its being constituted hold its first meeting and:
 - (a) give all necessary directions to the President on the implementation of this Charter; and
 - (b) do all such other things as may be necessary for the expeditious and effective implementation of this Charter.

For purposes of this Article 49, "President" means the inaugural president and legal representative of the Bank appointed by the meeting of the Board of Governors referred to in paragraph 1 of this Article.

DONE at Bujumbura, Republic of Burundi, on the Twelfth day of July, One Thousand Nine Hundred Eighty-Five, in the English and French languages, both text being equally authentic.



Annexure A - Group Corporate Secretary's Note

1.
 - (a) The Treaty for the establishment of the Preferential Trade Area for Eastern and Southern African States entered into force on 2nd September 1982 as a first step towards the creation of a Common Market and eventually an Economic Community for the Eastern and Southern Africa Sub-region.
 - (b) Chapter Nine of the Treaty made provision for the establishment of the Bank.
 - (c) With the entry into force on 8th December 1994 of the Treaty for the Common Market for Eastern and Southern Africa which transformed the Preferential Trade Area into a Common Market the Treaty for the establishment of the Preferential Trade Area for Eastern and Southern African States was repealed.
2. The Charter was adopted by the Council of Ministers of the Preferential Trade Area in Bujumbura, Burundi on the 12th day of July 1985 and entered into force on the 6th day of November 1985.
3. The Charter has been amended from time to time and all amendments are described in Annexure B.
4. The last amendments were made in pursuance of Resolutions BG/35/19/07, BG/35/19/09, BG/35/19/11, BG/35/19/12, BG/35/19/13, BOG/CR/2020/01B, BG/36/20/07 and BG/36/20/10. The amended Charter became effective on the 1st day of January 2020.



Annexure B - Amendments and Repeals

AMENDED at:

1. Nairobi, Kenya, on the Third day of June, One Thousand, Nine Hundred Ninety by Resolution BG/6/90/14;
2. Abidjan, Cote D'Ivoire, on the Fifteenth day of May, One Thousand, Nine Hundred Ninety-Three by Resolution BG/9/93/9;
3. Nairobi, Kenya, on the Fourteenth day of May, One Thousand, Nine Hundred Ninety-Four by Resolutions BG/10/94/3, BG/10/94/4, BG/10/94/5, BG/10/94/6, BG/10/94/7; BG/10/94/8 and BG/10/94/9;
4. Kampala, Uganda, on the Ninth day of May, One Thousand, Nine Hundred Ninety-Five by Resolution BG/11/95/4;
5. Harare, Zimbabwe, on Fifteenth day of May, One Thousand, Nine Hundred Ninety-Seven by Resolutions BG/13/97/5;
6. Kigali, Rwanda, on the Nineteenth day of June, Two Thousand One by Resolution BG/17/01/06;
7. Addis Ababa, Ethiopia, on the Twenty-Sixth day of June, Two Thousand Two by Resolution BG/18/02/05;
8. Mauritius, on the Twenty Seventh day of June, Two Thousand Seven by Resolution BG/23/07/06;
9. Lusaka, Zambia, on the Twentieth day of December, Two Thousand Twelve by Resolution BG/28/12/07;
10. Djibouti, Djibouti, on the Fifth day of November, Two Thousand Fifteen by Resolution BG/31/15/07;
11. Kigali, Rwanda, on the Sixteenth day of May, Two Thousand Sixteen by Resolution BG/32/16/07;
12. Mahé, Seychelles, on the Thirty-First day of August, Two Thousand Seventeen by Resolution BG/33/17/08; and
13. Livingstone, Zambia, on the Twenty-Second day of August, Two Thousand Nineteen by Resolutions BG/35/19/07, BG/35/19/09, BG/35/19/11, BG/35/19/12 and BG/35/19/13, and by Resolutions BOG/CR/2020/01B, BG/36/20/07 and BG/36/20/10 via circularisation.



TRADE & DEVELOPMENT BANK